

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

LINDA MIGLIORI, FRANCIS J. FOX,
RICHARD E. RICHARDS, KENNETH
RINGER, and SERGIO RIVAS,

Plaintiffs,

and

ZACHARY COHEN,

Intervenor- Plaintiff,

v.

LEHIGH COUNTY BOARD OF ELECTIONS,

Defendant,

and

DAVID RITTER,

Intervenor-Defendant.

No. 5:22-cv-00397-JFL

**RESPONSE IN OPPOSITION TO PETITION FOR ATTORNEYS' FEES
FILED BY LEHIGH COUNTY BOARD OF ELECTIONS**

The Lehigh County Board of Elections, above-captioned Defendant ("Board"), respectfully submits this Response in Opposition to Petition for Attorneys' Fees filed by Linda Migliori, Francis J. Fox, Richard E. Richards, Kenneth Ringer, and Sergio Rivas, above-captioned Plaintiffs (collectively, "Plaintiffs"), and in support thereof, avers the following:

1. Denied. The corresponding paragraph is a conclusion of law to which no response is required.

2. Denied. The corresponding paragraph is a conclusion of law to which no response is required. To extent a response is required, the Board submits the Third Circuit held in favor of

Plaintiffs, that decision was vacated and remanded to that Court by the United States Supreme Court. The Order of the United States Supreme Court vacating that decision renders that decision a nullity.

3. Denied. The Board did participate in the appeal and/or continuing litigation before the United States Supreme Court and filed a Brief seeking the overturning and/or vacation of the Third Circuit Court of Appeals' Decision and Order. The United States Supreme Court granted certiorari, vacated the Decision from the Third Circuit, and taxed the costs of the litigation against Plaintiffs.

4. Denied. The corresponding paragraph is a conclusion of law to which no response is required. To extent a response is required, the Board avers it counted the votes at issue based on the United States Supreme Court's decision to not grant a stay pending the meritorious appeal that ultimately overturned the Third Circuit's Decision and Order.

5. Denied. The corresponding paragraph is a conclusion of law to which no response is required. To extent a response is required, the Board denies a court order granted the relief sought. By way of further answer, there is no Decision or Order that grants the relief sought by the Plaintiffs (vacated by the United States Supreme Court), and, therefore, no relief granted making Plaintiffs prevailing parties for purposes of awarding attorneys' fees under Federal Law.

6. Denied. The corresponding paragraph is a conclusion of law to which no response is required. To the extent a response is required, the Board avers the United States Supreme Court granted certiorari, vacated the Decision from the Third Circuit, and taxed the costs of the litigation against Plaintiffs.

7. Denied. The corresponding paragraph is a conclusion of law to which no response is required.

8. Denied. The corresponding paragraph is a conclusion of law to which no response is required. To the extent a response is required, the Board expressly and unequivocally denies Plaintiffs are legally considered prevailing parties rendering them eligible for an award of attorneys' fees.

9. Denied. The corresponding paragraph is a conclusion of law to which no response is required. To the extent a response is required, the Board expressly and unequivocally denies the attorneys' fees sought by Plaintiffs in the instant Petition are reasonable in any manner.

Based on the foregoing, the Board denies Plaintiffs are entitled to any relief, and seek an Order from this Court denying their Petition, and rendering a judgment in the Board's favor for all available relief, including, but not limited to, attorney's fees, costs, and expenses.

Respectfully Submitted,

Repka Mazin, LLC

Date: December 1, 2022

By: Lucas J. Repka

Lucas J. Repka

Pa. I.D. No. 93509

108 East Center Street

Nazareth, Pennsylvania 18064

Phone : (610) 365-2670

Email: Lucas@repkamazinlaw.com

Counsel for The Lehigh County Board of
Elections, Defendant

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

LINDA MIGLIORI, FRANCIS J. FOX,
RICHARD E. RICHARDS, KENNETH
RINGER, and SERGIO RIVAS,

Plaintiffs,

and

ZACHARY COHEN,

Intervenor- Plaintiff,

v.

LEHIGH COUNTY BOARD OF ELECTIONS,

Defendant,

and

DAVID RITTER,

Intervenor-Defendant.

No. 5:22-cv-00397-JFL

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the Response in Opposition to Petition for Attorneys' Fees was served on all parties of record via the Court's CM/ECF system on the date set forth below.

Date: December 1, 2022

By: Lucas J. Repka

Lucas J. Repka

Pa. I.D. No. 93509

108 East Center Street

Nazareth, Pennsylvania 18064

Phone : (610) 365-2670

Email: Lucas@repkamazinlaw.com

Counsel for The Lehigh County Board of
Elections, Defendant